

ORDINANCE NO. 2010-3689

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VII, DIVISION 3 ENTITLED "LOBBYISTS", SECTION 2-482 THEREOF ENTITLED "REGISTRATION" SO AS TO CLARIFY THAT THE ANNUAL LOBBYIST REGISTRATION FEE IS REQUIRED TO BE PAID FOR EACH TWELVE MONTH PERIOD COMMENCING OCTOBER 1 OF EACH YEAR; AND AMENDING CITY CODE SECTION 2-485 THEREOF ENTITLED "LIST OF EXPENDITURES; FEE DISCLOSURE; REPORTING REQUIREMENTS", SO AS TO CHANGE ANNUAL REPORTING DATE FOR LOBBYIST EXPENDITURE AND FEE DISCLOSURE FROM OCTOBER 1 TO FEBRUARY 28, AND CHANGING CORRESPONDING ANNUAL DATE FOR POST-DELINQUENCY LOBBYIST SUSPENSION DUE TO FAILURE TO FILE REPORT AFTER IMPOSITION OF PENALTY FROM DECEMBER 1 TO APRIL 30; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Miami Beach City Code Chapter 2, Article VII, Division 3 entitled "Lobbyists", Section 2-482 thereof is hereby amended to read as follows:

Sec. 2-482. Registration.

(a) All lobbyists shall, before engaging in any lobbying activities, register with the city clerk. Every person required to register shall register on forms prepared by the clerk, pay a registration fee of \$350.00, as specified in appendix A and state under oath:

- (1) His name;
- (2) His business address;
- (3) The name and business address of each person or entity which has employed the registrant to lobby;
- (4) The commissioner or personnel sought to be lobbied, and whether the lobbyist has entered into any contractual relationship (paid or unpaid) with said city commissioner or personnel from 12 months preceding such person's commencement of service with the city to the present date, stating the general nature of the subject contractual relationship.
- (5) The specific issue on which he has been employed to lobby; and
- (6) The terms and amount of compensation to be paid by each principal to the lobbyist with regard to the specific issue on which the lobbyist has been engaged to lobby.

Cross references: List of expenditures; fee disclosure; reporting requirements, § 2-485.

(b) Any change to any information originally filed, or any additional city commissioner or personnel who are also sought to be lobbied shall require that the lobbyist file an amendment to the registration forms, although no additional fee shall be required for such amendment. The

lobbyist has a continuing duty to supply information and amend the forms filed throughout the period for which the lobbying occurs.

(c) If the lobbyist represents a corporation, partnership or trust, the chief officer, partner or beneficiary shall also be identified. Without limiting the foregoing, the lobbyist shall also identify all persons holding, directly or indirectly, a five percent or more ownership interest in such corporation, partnership, or trust.

(d) Separate registration shall be required for each principal represented on each specific issue. Such issue shall be described with as much detail as is practical, including but not limited to a specific description where applicable of a pending request for a proposal, invitation to bid, or public hearing number.

(e) Each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.

(f) In addition to the \$350.00 per issue registration fee required in subsection (a) of this section, annual registration of all lobbyists shall be required prior to for each twelve month period commencing October 1 of each year, and the fee for such annual registration shall be \$500.00, as specified in appendix A.

(g) Every registrant shall be required to state the extent of any business, financial, familial or professional relationship, or other relationship giving rise to an appearance of an impropriety, with any current city commissioner or city personnel who is sought to be lobbied as identified on the lobbyist registration form filed.

(h) The registration fees required by subsections (a) and (f) of this section shall be deposited by the clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration, and other costs incurred in maintaining these records for availability to the public. There shall be no fee required for filing a notice of withdrawal, and the city commission may in its discretion, waive the registration fee upon a finding of financial hardship. Prior to conducting any lobbying, all principals must file a form with the city clerk, signed by the principal or the principal's representative, stating under oath that the lobbyist is authorized to represent the principal. Failure of a principal to file the form required by the preceding sentence may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor. Each principal shall file a form under oath with the city clerk at the point in time at which a lobbyist is no longer authorized to represent the principal. Any person (except those exempt from the definition of "lobbyist" as set forth in section 2-481 above) who only appears as a representative of a not-for-profit corporation or entity without special compensation or reimbursement for the appearance, whether direct or indirect to express support of or opposition to any item, shall register with the clerk as required by this section but, shall not be required to pay any registration fees. Copies of registration forms shall be furnished to each commissioner or other personnel named on the forms.

(i) All members of the city commission and all city personnel shall be diligent to ascertain whether persons required to register pursuant to this section have complied. Commissioners or city personnel may not knowingly permit themselves to be lobbied by a person who is not registered pursuant to this section to lobby the commissioner or the relevant committee, board or city personnel.

(j) The city clerk shall publish logs on a quarterly and annual basis reflecting the lobbyist registrations filed. All logs required by this section shall be prepared in a manner substantially similar to the logs prepared for the state legislature pursuant to F.S. § 11.045.

SECTION 2. That Miami Beach City Code Chapter 2, Article VII, Division 3 entitled "Lobbyists", Section 2-485 thereof is hereby amended to read as follows:

Sec. 2-485. List of expenditures; fee disclosure; reporting requirements.

(a) On ~~October 1~~ February 28th¹ of each year, lobbyists subject to lobbyist registration requirements shall submit to the city clerk a signed statement under oath as provided herein listing all lobbying expenditures, as well as compensation received, for the preceding calendar year with regard to the specific issue on which the lobbyist has been engaged to lobby. A statement shall be filed even if there have been no expenditures or compensation during the reporting period. The statement shall list in detail each expenditure by category, including food and beverage, entertainment, research, communication, media advertising, publications, travel, lodging and special events.

(b) Each lobbyist and his/her principal shall, before engaging in any lobbying activities, submit to the city clerk a joint signed statement under oath disclosing the terms and amount of compensation to be paid by each principal to the lobbyist with regard to the specific issue on which the lobbyist has been engaged to lobby. If no compensation will be paid concerning the subject lobby services, a statement shall nonetheless be filed reflecting as such.

(c) Any change to information originally filed shall require that the lobbyist (and principal under subsection (b) above) file, within three business days from such changed circumstances, a signed statement under oath amending the above-referenced reports; additionally, in the event official action on the specific lobbied issue is scheduled to occur during said three day period, the lobbyist and principal shall prior to said official action, further disclose the amendment by publicly stating on the record at which the official action is to occur the subject amendment. The lobbyist and principal have a continuing duty to supply accurate information and amend said reports when so needed.

(d) The city clerk shall notify any lobbyist (or principal) who fails to timely file the expenditure or fee disclosure reports referenced in sections (a) and (b) above. In addition to any other penalties which may be imposed as provided in section 2-485.1, a fine of \$50.00 per day shall be assessed for reports filed after the due date. Any lobbyist who fails to file the required expenditure report by ~~December 1~~ April 30 shall be automatically suspended from lobbying until all fines are paid, unless the fine has been appealed to the Miami Dade County Ethics Commission.

(e) The city clerk shall notify the Miami-Dade County Commission on Ethics and Public Trust of the failure of a lobbyist (or principal) to file either of the reports referenced above and/or pay the assessed fines after notification.

(f) A lobbyist (or principal) may appeal a fine and may request a hearing before the Miami-Dade Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Miami-Dade Commission on Ethics and Public Trust within 15 calendar days of receipt of the notification of the failure to file the required disclosure form. The Miami-Dade Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or in part, based on good cause shown.

¹ For purposes of transitioning this change of date and related lobbyist responsibility to timely file disclosure reports as required hereinabove, reports for calendar years 2009 and 2010 shall be submitted to the City Clerk by February 28, 2011, with subsequent years' reports to be filed with the City Clerk by February 28 of each respective following year, as set forth in (a) above.

SECTION 3. **REPEALER**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. **SEVERABILITY**

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. **CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article," or other appropriate word.

SECTION 6. **EFFECTIVE DATE**

This Ordinance shall take effect the 25th day of September, 2010.

PASSED and **ADOPTED** this 15th day of September, 2010.

ATTEST:

Robert Paucher
CITY CLERK

Matt H. Bower
MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Joseph H. 8/31/10
City Attorney Date